

1 AN ACT relating to educational opportunities and making an appropriation
2 therefor.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 9 of this Act:*

7 *(1) "Charter applicant" or "applicant" means an eligible person or persons,*
8 *organization, or entity that seeks approval from a charter school authorizer to*
9 *establish a public charter school;*

10 *(2) "Charter application" or "application" means a proposal from an applicant to*
11 *an authorizer to enter into a charter contract whereby the proposed school*
12 *obtains public charter school status;*

13 *(3) "Charter authorizer" or "authorizer" means an entity or body established to*
14 *review and approve or deny charter applications, approve public charter schools,*
15 *enter into charter contracts with applicants, oversee public charter schools, and*
16 *renew, not renew, or revoke charter contracts. Authorizers include:*

17 *(a) The office of a mayor located in a county with a consolidated local*
18 *government;*

19 *(b) The office of a mayor located in a county with an urban-county*
20 *government;*

21 *(c) A local county or independent school district;*

22 *(d) The board of trustees of a four (4) year public, or nonpublic nonprofit,*
23 *postsecondary education institution containing an accredited school of*
24 *education who may authorize only public charter schools not sponsored by*
25 *the institution;*

26 *(e) The Kentucky Council on Postsecondary Education; and*

27 *(f) The State Board of Education with chartering authority limited to:*

- 1 1. Receiving charter applications on appeal and authorizing charter
2 schools from such applications; and
3 2. Virtual public charter schools;
- 4 (4) "Charter contract" or "contract" means a fixed-term, renewable contract
5 between a public charter school and an authorizer that specifies the roles,
6 powers, responsibilities, and performance expectations for each party to the
7 contract. A charter contract may consist of one (1) or more public charter
8 schools, to the extent approved by the authorizer;
- 9 (5) "Charter school governing board" or "governing board" means the independent
10 board of a public charter school that is party to the charter contract with the
11 authorizer and whose members have been elected or selected pursuant to the
12 school's application;
- 13 (6) "Conversion public charter school" means a public charter school that existed as
14 a noncharter public school prior to becoming a public charter school;
- 15 (7) "Education service provider" means an education management organization,
16 charter management organization, school design provider, or any other partner
17 entity with which a public charter school intends to contract for educational
18 design, implementation, or comprehensive management;
- 19 (8) "Local school board" means a school board exercising management and control
20 of a local school district;
- 21 (9) "Noncharter public school" means a public school that is under the direct
22 management, governance, and control of a local school board;
- 23 (10) "Parent" means a parent, guardian, or other person or entity having legal
24 custody of a child;
- 25 (11) "Public charter school" means a public school that has autonomy over decisions,
26 including but not limited to matters concerning finance, personnel, scheduling,
27 curriculum, and instruction and operates under the provisions of subsection (2)

1 of Section 3 of this Act;

2 (12) "School district" means a county school district or independent school district as
3 identified in KRS 160.010 and 160.020;

4 (13) "Start-up public charter school" means a public charter school that did not exist
5 as a noncharter public school prior to becoming a public charter school;

6 (14) "State Board of Education" or "state board" means the Kentucky Board of
7 Education;

8 (15) "Student" means any child who is eligible for attendance in a public school in
9 the state; and

10 (16) "Virtual public charter school" means a public charter school that offers
11 educational services primarily or completely through an online program and
12 whose sole authorizer is the State Board of Education.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
14 READ AS FOLLOWS:

15 The General Assembly hereby finds and declares that:

16 (1) The demand exists for high-quality public school options in the Commonwealth;

17 (2) A public charter school shall provide:

18 a. Students with high-quality public school options while advancing overall
19 academic excellence and helping to close achievement gaps; and

20 b. Parents flexibility to choose among diverse educational opportunities within
21 the public school system;

22 (3) National research and accumulated experience have documented that quality
23 public charter schools best fulfill their potential when they have the resources,
24 autonomy, and accountability they need to succeed; and

25 (4) The provisions established in Sections 1 to 9, 10, 11, 12, 13, 14, 15, and 16 of this
26 Act will lead public education in the Commonwealth to meet Twenty-first Century
27 educational needs.

1 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) (a) A public charter school shall be exempt from all state statutes and
4 administrative regulations applicable to a local school board, school district,
5 or school, except the public charter school shall adhere to the same health,
6 safety, civil rights, and disability rights requirements as are applied to all
7 public schools.

8 (b) A public charter school may elect to comply with any one (1) or more
9 provisions of any state statute or administrative regulation.

10 (2) A public charter school shall:

11 (a) Be a nonprofit education organization;

12 (b) Be governed by a governing board;

13 (c) Be established and operate under the terms of a charter contract between
14 the school's governing board and its authorizer;

15 (d) Have all the powers necessary for carrying out the terms of its charter
16 contract, including the power to:

17 1. Receive and disburse funds for school purposes;

18 2. Secure appropriate insurance and enter into contracts and leases;

19 3. Contract with an education service provider, so long as the governing
20 board of the public charter school retains oversight and authority over
21 the school;

22 4. Incur debt in reasonable anticipation of the receipt of public or private
23 funds;

24 5. Pledge, assign, or encumber its assets to be used as collateral for loans
25 or extensions of credit;

26 6. Solicit and accept any gifts or grants for school purposes, subject to
27 applicable laws and the terms of its charter contract;

- 1 7. Acquire real property for use as its facility or facilities, from public or
2 private sources; and
- 3 8 Employ or contract with other entities for the provision of teaching,
4 professional, and support staff as needed;
- 5 (e) Admit students on the basis of a lottery if more students apply for admission
6 to any specific grade or program than can be accommodated;
- 7 (f) Provide transportation for students residing within the boundary of the
8 local school district in which the public charter school is located;
- 9 (g) Provide a program of education that includes any grade or grades from
10 kindergarten through grade twelve (12);
- 11 (h) Operate in pursuit of a specific set of educational objectives as defined in its
12 charter contract; and
- 13 (i) Operate under the oversight of its authorizer in accordance with its charter
14 contract and application.
- 15 (3) (a) A majority of the members of the governing board shall be parents of
16 students who are enrolled or will be enrolled in the public charter school
17 during the time of the member's service on the board;
- 18 (b) Teachers and administrators employed in the public charter school shall
19 constitute no more than one-third (1/3) of the members of the governing
20 board;
- 21 (c) A governing board may hold one (1) or more charter contracts; and
- 22 (d) Each public charter school under contract with a governing board shall be
23 separate and distinct from any other public charter school under contract
24 with the governing board.
- 25 (4) (a) A school district shall provide or publicize to parents and the general public
26 information about public charter schools authorized by the school district
27 as an enrollment option within the district to the same extent and through

1 the same means that the school district provides and publicizes information
2 about noncharter public schools in the district.

3 (b) A local district shall not require any student enrolled in the local district to
4 attend a public charter school.

5 (5) (a) A public charter school shall be open to any student who is eligible for
6 attendance in a noncharter public school and whose parent chooses to send
7 his or her children to the school.

8 (b) A public charter school shall not limit admission based on ethnicity,
9 national origin, religion, gender, income level, disabling condition,
10 proficiency in the English language, academic ability, or athletic ability.

11 (c) A public charter school may limit admission to students within a given age
12 group or grade level and may be organized around a special emphasis,
13 theme, or concept as stated in the school's application.

14 (6) (a) The number of students a public charter school may enroll shall be
15 determined by the governing board of the school following consideration of
16 the school's ability to:

- 17 1. Facilitate the academic success of its students;
18 2. Achieve the objectives specified in the charter contract; and
19 3. Ensure that the student enrollment does not exceed the capacity of the
20 facility or site.

21 (b) The authorizer of a public charter school shall not restrict the number of
22 students the school may enroll, but shall annually hear amendments to a
23 charter contract concerning enrollments.

24 (7) (a) A public charter school shall enroll all students who wish to attend the
25 school unless the number of students exceeds the capacity of a program,
26 class, grade level, or building.

27 (b) Enrollment preference for a public charter school shall be given to students

1 who reside within the school district boundary in which the charter school
2 is located.

3 (c) Enrollment preference for a conversion public charter school shall be given
4 to students who attended the school in the previous school year. If the
5 number of students enrolled does not exceed the capacity of the school,
6 secondary preference shall be given to students who reside within the school
7 district boundary in which the charter school is located.

8 (d) Enrollment preference for public charter schools shall be given to students
9 enrolled in the public charter school the previous year and to siblings of
10 students already enrolled in the school. An enrollment preference for
11 returning students excludes those students from entering into a lottery, as
12 identified in paragraph (g) of this subsection.

13 (e) Enrollment preference may be given to the children of the public charter
14 school's governing board and full-time employees of the school, so long as
15 they constitute no more than ten percent (10%) of the total student
16 population.

17 (f) A public charter school authorized by a board of trustees of a four (4) year
18 public, or nonpublic nonprofit, postsecondary education institution
19 containing an accredited school of education may request through its
20 application a waiver from any requirement that enrollment preference be
21 given to students residing within the school district boundary in which the
22 charter school is located.

23 (g) If capacity is insufficient to enroll all students who wish to attend any
24 specific grade level or program at the school, the school shall select students
25 through a lottery.

26 (8) (a) Nothing in this section shall prohibit the formation of a public charter
27 school whose mission is focused on serving students with disabilities,

1 students of the same gender, students who pose such severe disciplinary
2 problems that they warrant a specific educational program, or students who
3 are at risk of academic failure.

4 (b) If capacity is insufficient to enroll all students who wish to attend a public
5 charter school formed under this subsection, the school shall select students
6 through a lottery.

7 (9) (a) 1. A public charter school shall be eligible to participate in state-
8 sponsored or district-sponsored extracurricular activities, including
9 but not limited to interscholastic athletics, academic programs,
10 competitions, awards, scholarships, and recognition programs for
11 students, educators, administrators, and schools to the same extent as
12 noncharter schools. Participants shall comply with eligibility
13 requirements of students enrolled in noncharter schools.

14 2. A public charter school has no obligation to provide extracurricular
15 activities or access to facilities for students enrolled in the public
16 charter school.

17 3. If a public charter school sponsors extracurricular activities, students
18 enrolled in the public charter school shall be considered eligible to
19 participate in interscholastic competitions by the Kentucky Board of
20 Education or the agency designated by the state board to manage
21 interscholastic athletics, if other eligibility requirements are met.

22 (b) 1. A student enrolled in a public charter school that sponsors an
23 extracurricular activity shall be ineligible to participate in that activity
24 at any other school.

25 2. A student enrolled in a public charter school that does not sponsor an
26 extracurricular activity shall be eligible to participate in the
27 extracurricular activity at:

- 1 a. The school within whose attendance area the student's custodial
2 parent or legal guardian resides; or
3 b. The noncharter public school from which the student withdrew
4 for purposes of attending a public charter school.
- 5 3. If selection to participate in an extracurricular activity identified at a
6 noncharter public school is made on a competitive basis, a public
7 charter school student eligible under this paragraph shall be eligible
8 to try out for and participate in the activity.
- 9 4. A public charter school student shall pay the same fees as other
10 students to participate in an extracurricular activity.
- 11 5. A public charter school student shall be eligible for fee waivers in the
12 same manner as other students.
- 13 6. A school district or noncharter public school shall not impose
14 additional requirements on a public charter school student to
15 participate in extracurricular activities that are not imposed on full-
16 time students at the noncharter public school.
- 17 (10) If a student who was previously enrolled in a public charter school enrolls in
18 another public school located within the state, the new school shall accept any
19 credits earned and grades received by the student in courses or instructional
20 programs while enrolled in the public charter school in a uniform and consistent
21 manner and according to the same criteria that are used to accept credits from
22 other public schools.
- 23 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
24 READ AS FOLLOWS:
- 25 (1) A public charter school shall not discriminate against any person on the basis of
26 race, creed, color, sex, disability, national origin, or any category that would be
27 unlawful if done by a noncharter public school.

1 (2) A public charter school shall not engage in any sectarian practice in its
2 educational program, admissions or employment policies, or operations.

3 (3) (a) A public charter school shall not discriminate against any student on the
4 basis of national origin, minority status, disability, or limited English
5 proficiency.

6 (b) Consistent with federal civil rights laws, public charter schools shall provide
7 limited-English-proficient students with appropriate services designed to
8 teach them English and the general curriculum.

9 (c) 1. A public charter school shall have primary responsibility for special
10 education at the school, including identification and service provision.
11 It shall be responsible for meeting the needs of enrolled students with
12 disabilities.

13 2. If a student's individualized education program team determines that
14 a disabled student's needs are so profound that they cannot be met in
15 the public charter school, and the public charter school cannot
16 provide a free, appropriate public education to that student, the
17 student's district of residence shall place the student in a more
18 appropriate setting.

19 (4) A public charter school shall not charge tuition and may only charge such fees as
20 may be imposed by noncharter public schools in the state.

21 (5) A public charter school shall be subject to the student assessment and
22 accountability requirements applicable to noncharter public schools in the state,
23 but may establish additional student assessment measures that exceed state
24 requirements if approved by the public charter school's authorizer.

25 (6) The governing board of a public charter school and all entities with which a
26 public charter school or its authorizer contracts for services in the amount of
27 twenty-five thousand dollars (\$25,000) or more per year shall be subject to and

1 comply with the open meetings and open records requirements of KRS Chapter
2 61.

3 (7) A public charter school shall adhere to generally accepted accounting principles
4 and shall annually engage an external auditor to do an independent audit of the
5 school's finances. Within ten (10) days of receiving the audit report, the school
6 shall deliver a copy of the audit report to the authorizer of the school.

7 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) An employee of a public charter school authorized by a local school district shall
10 be provided all the rights, privileges, and benefits provided to all other employees
11 of the authorizing school district.

12 (2) An employee of a public charter school not authorized by a local school district
13 shall:

14 (a) Have the same rights and privileges as those extended to local district
15 employees, except as otherwise stated in this section;

16 (b) Be provided the health and life insurance and other benefit programs
17 extended to local school district employees;

18 (c) Be eligible to participate in retirement and other benefits programs, if the
19 public charter school chooses to participate. If a public charter school
20 chooses to participate:

21 1. Employees shall participate in the Kentucky Teachers' Retirement
22 System or the County Employees Retirement System, as determined by
23 their eligibility for participation in the appropriate system;

24 2. The public charter school shall remit to the appropriate retirement
25 system the employer contributions required by law for participating
26 employers;

27 3. Teachers and other certified personnel shall make any required

1 employee contributions to the Kentucky Teachers' Retirement System
2 under KRS 161.220 to 161.716; and

3 4. Classified employees shall make any required employee contributions
4 to the County Employees Retirement System under KRS 78.510 to
5 78.852;

6 (d) Along with the members of the school's governing board, be subject to
7 national and state criminal history background checks as required under
8 KRS 160.380; and

9 (e) Not be required to be members of any collective bargaining agreement, but
10 shall have the right to organize and be free from discrimination.

11 (3) Any state appropriation for retirement, health, or life insurance benefits made on
12 behalf of a local public school employee shall also be made on behalf of a public
13 charter school employee.

14 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) The State Board of Education shall establish an annual application and approval
17 process, including cycles and deadlines during the fiscal year, for registering a
18 potential public charter school authorizer. The application and approval process
19 shall be submitted to the secretary of the Education and Workforce Development
20 Cabinet for approval.

21 (2) A prospective authorizer shall submit to the state board information in a format
22 prescribed by the state board to include:

23 (a) Written notification to serve as an authorizer of a public charter school;

24 (b) An explanation of the prospective authorizer's strategic vision for
25 chartering;

26 (c) An explanation of the prospective authorizer's budget and personnel
27 capacity and commitment to execute the duties of quality charter

1 authorizing as identified in this section;

2 (d) An explanation of how the prospective authorizer will solicit public charter
3 school applicants;

4 (e) A description or outline of the performance framework the potential
5 authorizer will use to guide the establishment of a charter contract and for
6 the oversight and evaluation of the public charter school;

7 (f) A draft of the prospective authorizer's renewal, revocation, and nonrenewal
8 processes to be applied to a school it authorizes;

9 (g) A statement of assurance that the prospective authorizer commits to serving
10 as an authorizer in fulfillment of the expectations, spirit, and intent of
11 Sections 1 to 9 of this Act and that standards of quality public charter
12 school authorizing will be fully adopted; and

13 (h) Procedures to be followed in the case of the revocation or nonrenewal of the
14 authorizer, including provisions for the transfer of students and student
15 records to the local school district in which the public charter school is
16 located or to another public charter school located within the local school
17 district and proper disposition of all school funds, property, and assets.

18 (3) The state board shall publish on the Department of Education's Web site:

19 (a) The procedures to follow to register as an authorizer of a public charter
20 school;

21 (b) A registration deadline date for a potential authorizer to submit information
22 required in subsection (2) of this section;

23 (c) Any application received from a prospective authorizer within ten (10) days
24 of receipt of the application; and

25 (d) A current list of registered authorizers, to include an address and phone
26 number of a contact person.

27 (4) The state board shall not charge a fee for any action required under this section

1 for which it is responsible.

2 (5) (a) Within sixty (60) days of receipt of the information required in subsection
3 (2) of this section, the state board shall approve or deny the applicant as an
4 authorizer of a public charter school and shall provide the authorizer with a
5 letter indicating approval or denial.

6 (b) Upon approval, an authorizer shall continue as a registered authorizer
7 engaging in any authorizing functions unless the ability to authorize has
8 been taken away for cause by the state board.

9 (c) Applicants denied by the state board may appeal to the secretary of the
10 Education and Workforce Development Cabinet who may uphold the denial
11 or overturn the decision of the state board and approve an applicant as an
12 authorizer. If the secretary upholds the state board's denial, he or she shall
13 inform the applicant and the state board. If the secretary overturns the
14 decision of the state board, the secretary shall provide the authorizer and
15 the state board a letter indicating approval and providing an explanation as
16 to why the state board's denial was overturned. The decision of the secretary
17 shall be final.

18 (6) The state board shall develop closure protocol to be followed by a public charter
19 school authorizer if the state board revokes the authority of the authorizer. The
20 protocol shall:

21 (a) Ensure the orderly transition of students and student records to new
22 schools, and proper disposition of school funds, property, and assets under
23 control of an authorizer; and

24 (b) Specify tasks, timelines, and responsible parties, including delineating the
25 respective duties of the state board, an authorizer, and a school.

26 (7) If the state board revokes the authority of a public charter school authorizer:

27 (a) A contract between the authorizer and the school shall be void;

1 **(b) A contract between the authorizer and any third party contracted to do**
2 **business with or manage the school shall be void; and**

3 **(c) The authorizer shall follow closure protocol required under subsection (6)**
4 **of this section and any additional termination procedures outlined in the**
5 **contract with the state board.**

6 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
7 READ AS FOLLOWS:

8 **(1) A public charter school authorizer shall publish and make available to an**
9 **applicant the criteria and process to be used to review an application to establish**
10 **a public charter school.**

11 **(2) An application to establish a charter school may be submitted to a charter school**
12 **authorizer by teachers, parents, school administrators, community residents,**
13 **public organizations, nonprofit organizations, or a combination thereof.**

14 **(3) The information provided in the application shall be consistent with this section**
15 **and shall include:**

16 **(a) An executive summary, a mission statement, and a vision statement for the**
17 **public charter school, including the targeted student population and the**
18 **community the school hopes to serve;**

19 **(b) The location or geographic area proposed for the school;**

20 **(c) A description of the school's proposed academic program that is aligned**
21 **with state standards, and that implements one (1) of more of the purposes**
22 **described in Section 2 of this Act and the instructional design, including the**
23 **type of learning environment, such as classroom-based or independent**
24 **study, class size and structure, curriculum overview, and teaching methods**
25 **that will support the implementation and success of the program;**

26 **(d) The student achievement goals for the charter school's educational**
27 **program and the chosen methods of evaluating whether students have**

- 1 attained the skills and knowledge specified for those goals;
- 2 (e) The school's plan for using external, internal, and state-required
3 assessments to measure student progress on the performance framework as
4 identified in Section 6 of this Act, and how the school will use data to drive
5 instruction and continued school improvement;
- 6 (f) The proposed governance structure of the school, including a list of
7 members of the initial governing board and their backgrounds, a draft of
8 the bylaws that include the description of the qualifications, terms, and
9 methods of appointment or election of board members, and the
10 organizational structure of the school that clearly presents lines of authority
11 and reporting between the governing board, school administrator, staff, any
12 related bodies, such as advisory bodies or parent and teacher councils, and
13 any external organizations that will play a role in managing the school;
- 14 (g) Plans and timelines for student recruitment, transfers, and enrollment,
15 including enrollment preferences and procedures for conducting
16 transparent admission lotteries that are open to the public and are
17 consistent with Section 3 of this Act;
- 18 (h) A proposed five (5) year budget, including the start-up year and projections
19 for four (4) additional years with clearly stated assumptions;
- 20 (i) Draft fiscal and internal control policies for the charter school;
- 21 (j) Requirements and procedures for programmatic audits and assessments at
22 least once annually, with audits and assessments being comparable in scope
23 to those required of noncharter public schools;
- 24 (k) A draft handbook that outlines the personnel policies of the charter school,
25 including the criteria to be used in the hiring of teachers, school
26 administrators, and other school employees, a description of staff
27 responsibilities, and the school's plan to evaluate personnel on an annual

- 1 basis;
- 2 (l) A draft of a code of student conduct that includes the policies and
3 procedures by which students may be disciplined, including students with
4 disabilities, which shall be consistent with the requirements of due process
5 and with state and federal laws and regulations governing the placement of
6 students with disabilities;
- 7 (m) A description of the facilities to be used by the school, including the location
8 of the school, if known, and how the facility supports the implementation of
9 the school's academic program. If the facilities to be used by the proposed
10 school are not known at the time the application is submitted, the applicant
11 shall notify the authorizer within ten (10) business days of acquiring
12 facilities for the school. The school shall obtain certification of occupancy
13 for the facilities at least thirty (30) days prior to the first student
14 instructional day;
- 15 (n) The proposed ages and grade levels to be served by the school, including the
16 planned, minimum, and maximum enrollment per grade per year;
- 17 (o) The school calendar and school day schedule, which shall total at least the
18 number of days, or their equivalent, required under KRS 158.070;
- 19 (p) Types and amounts of insurance coverage to be obtained by the school,
20 which shall include adequate insurance for liability, property loss, and the
21 personal injury of students, employees, and visitors to the school;
- 22 (q) Evidence of community support for and interest in the school sufficient to
23 allow the school to reach its anticipated enrollment;
- 24 (r) A description of the health and food services to be provided to students
25 attending the school;
- 26 (s) A code of ethics for the school setting forth the standards of conduct
27 expected of its governing board and employees;

- 1 (t) Plans for recruiting and developing staff;
- 2 (u) A staffing chart for the school's first year and a staffing chart for the term
- 3 of the charter;
- 4 (v) A plan for parental and community involvement in the school, including the
- 5 role of parents in the administration and governance of the school;
- 6 (w) The school's plan for identifying and successfully serving students with
- 7 disabilities, students who are English language learners, bilingual students,
- 8 and students who are academically behind and gifted, including but not
- 9 limited to the school's plan for compliance with all applicable federal and
- 10 state laws and regulations;
- 11 (x) A description of cocurricular and extracurricular programs and how they
- 12 will be funded and delivered; and
- 13 (y) A detailed start-up plan to include financing, tasks, and timelines, and
- 14 individuals responsible for carrying out the plan.
- 15 (4) If the public charter school intends to contract with an education service provider
- 16 for educational program implementation or comprehensive management, the
- 17 application shall additionally require the applicants to:
- 18 (a) Provide evidence of success in serving student populations similar to the
- 19 targeted population, including demonstrated academic achievement and
- 20 successful management of nonacademic school functions, if applicable;
- 21 (b) Provide a term sheet setting forth:
- 22 1. The proposed duration of the service contract;
- 23 2. The roles and responsibilities of the governing board, the school staff,
- 24 and the education service provider;
- 25 3. The scope of services and resources to be provided by the education
- 26 service provider;
- 27 4. Performance evaluation measures and timelines;

- 1 5. Compensation structure, including clear identification of all fees to be
2 paid to the education service provider;
3 6. Methods of contract oversight and enforcement;
4 7. Investment disclosure; and
5 8. Conditions for renewal and termination of the contract; and
6 (c) Disclose and explain any existing or potential conflicts of interest between
7 the governing board and the proposed education service provider or any
8 affiliated business entities.
9 (5) In the case of a proposed public charter school from an applicant that currently
10 operates one (1) or more public charter schools in any state or nation, in addition
11 to the requirements of subsection (4) of this section, the application shall require
12 the applicant to provide evidence of past performance and current capacity for
13 growth.
14 (6) In the case of a proposed public charter school that plans to establish a full-time
15 virtual public charter school, the application shall be submitted for approval to
16 the State Board of Education, which shall be the sole authorizer of virtual public
17 charter schools. In addition to the requirements of subsection (4) of this section,
18 the application shall require the applicant to provide a description regarding the
19 methods by which the school will:
20 (a) Ensure that adequate supports are available to students in their homes or
21 regions, including parent-teacher conferences and interactions;
22 (b) Monitor student outcomes and administer state-required assessments to all
23 students in a proctored setting;
24 (c) Establish and implement legally permissible criteria and processes for
25 enrollment based on the existence of supports needed for student success;
26 (d) Provide the desired enrollment level of the school for each year of the
27 contract with any increases in enrollment from one (1) year to the next

- 1 based on whether the school meets its performance requirements;
- 2 (e) Provide detailed costs for the school and propose a funding level per student
- 3 for the school that is based upon these detailed costs; and
- 4 (f) Provide data for oversight, funding, and renewal and closure decisions for
- 5 full-time virtual public charter school-specific goals regarding student
- 6 enrollment, attendance, engagement, achievement, truancy, and attrition
- 7 that demonstrates the school meets agreed-upon benchmarks.
- 8 (7) After a charter applicant submits a written application to establish a public
- 9 charter school to an authorizer, the authorizer shall:
- 10 (a) Complete a thorough review of the application;
- 11 (b) Conduct an in-person interview of the applicant or applicants;
- 12 (c) Provide an opportunity in a public forum for local residents to learn about
- 13 and provide input on each application;
- 14 (d) Provide a detailed analysis of the application to the applicant or applicants;
- 15 (e) Allow an applicant a reasonable time to provide additional materials and
- 16 amendments to its application to address any identified deficiencies;
- 17 (f) Approve or deny a charter application or request additional information;
- 18 (g) Execute a separate and distinct contract with each school it authorizes,
- 19 incorporating and consistent with approved applications, between the
- 20 authorizer and the public charter school detailing the rights and
- 21 responsibilities of the authorizer and the public charter school and setting
- 22 forth the academic and operational performance expectations and measures
- 23 by which the public charter school will be assessed. The authorizer may
- 24 make the approved application the charter contract;
- 25 (h) Monitor on a regular basis the performance of a public charter school it
- 26 authorizes; and
- 27 (i) Establish through formal rulemaking renewal and revocation criteria and

1 processes for a public charter school it authorizes.

2 (8) In deciding whether to approve a charter application, an authorizer shall:

3 (a) Grant charters only to applicants that have demonstrated competence in
4 each element of the authorizer's published approval criteria and that are
5 very likely to open and operate an academically and operationally
6 successful public charter school;

7 (b) Base decisions on documented evidence collected through the application
8 review process; and

9 (c) Follow charter-granting policies and practices that are transparent and
10 based on merit, avoiding conflicts of interest or any appearance thereof.

11 (9) No later than sixty (60) days after the receipt of a charter application, the
12 authorizer shall decide to approve or deny the application. The authorizer shall
13 adopt by resolution all charter approval or denial decisions in an open meeting of
14 the authorizer's governing board.

15 (10) (a) A decision to approve a charter application may include reasonable
16 conditions that the applicant must meet prior to the execution of a charter
17 contract. Reasonable conditions may not include enrollment caps or
18 operational requirements that are contradictory to the provisions of
19 Sections 3 and 4 of this Act.

20 (b) For each public charter school it authorizes, an authorizer may charge an
21 annual administrative fee in an amount not to exceed two percent (2%) of
22 the funds received by a public charter school under subsection (3) of
23 Section 10 this Act. The authorizer shall use the fees exclusively for the
24 purpose of fulfilling authorizing obligations.

25 (11) (a) An authorizer shall clearly state, for the public record, its reasons for denial
26 of a charter application.

27 (b) A denial of an application may be appealed to the State Board of Education.

1 A denied applicant may reapply to the authorizer or apply to another
2 authorizer. An application shall not be reconsidered for approval after
3 being denied by two (2) authorizers and the State Board of Education.

4 (12) (a) Within ten (10) days of taking action to approve or deny a charter
5 application, the authorizer shall notify the Department of Education of the
6 action taken.

7 (b) The authorizer shall provide a report to the charter applicant and the
8 Department of Education simultaneously and include a copy of the
9 resolution adopted by the authorizer's governing board setting forth the
10 action taken, the reasons for the decision, and an assurance as to
11 compliance with all of the procedural requirements and application
12 elements found in Sections 6 and 7 of this Act.

13 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
14 READ AS FOLLOWS:

15 (1) A charter contract between a public charter school authorizer and a public
16 charter school may be renewed for a term of duration of no more than five (5)
17 years. The authorizer may vary the term based on the performance, demonstrated
18 capacities, and particular circumstances of each public charter school. An
19 authorizer may grant renewal with specific conditions for necessary
20 improvements to a public charter school, but may not impose conditions
21 inconsistent with Sections 1 to 9 of this Act.

22 (2) (a) No later than six (6) months prior to the expiration date of a charter
23 contract, an authorizer shall issue a public charter school performance
24 report and charter renewal application guidance to the public charter
25 school it authorized. The performance report shall summarize the school's
26 performance record to date, based on the performance framework required
27 under Section 6 of this Act and the charter contract, and shall provide

1 notice of any weaknesses or concerns related to the school that may
2 jeopardize its position in seeking renewal if not timely rectified.

3 (b) The school shall have ten (10) days to respond to the performance report
4 and submit any corrections or clarification for the report.

5 (c) Within twenty (20) days of receiving a school's response, the authorizer
6 shall review the response and issue a final performance report to the school.

7 (3) (a) The renewal application guidance shall, at a minimum, provide an
8 opportunity for the public charter school to:

9 1. Present additional evidence beyond the data contained in the
10 performance report supporting its case for charter renewal;

11 2. Describe improvements undertaken or planned for the school; and

12 3. Detail the school's plan for the next charter term.

13 (b) The renewal application guidance shall include or refer explicitly to the
14 criteria that will guide the authorizer's renewal decisions, which shall be
15 based on the performance framework as identified in the charter contract.

16 (4) No later than three (3) months prior to the expiration date of a charter contract,
17 the governing board of a public charter school seeking charter contract renewal
18 shall submit a renewal application to the authorizer pursuant to the renewal
19 application guidance issued by the authorizer. The authorizer shall rule by
20 resolution on the renewal application no later than thirty (30) days after receipt
21 of the application.

22 (5) In making a charter renewal decision, an authorizer shall:

23 (a) Base its decision on evidence of the public charter school's performance
24 over the term of the charter contract in accordance with the performance
25 framework required in the charter contract;

26 (b) Ensure that data used in making renewal decisions is available to the public
27 charter school and the public; and

- 1 (c) Provide a public report summarizing the evidence basis for each decision.
- 2 (6) A charter contract may be revoked at any time or not renewed if the authorizer
3 determines that the public charter school has:
- 4 (a) Not complied with Sections 1 to 9 of this Act:
- 5 (b) Committed a material violation of any of the terms, conditions, standards,
6 or procedures required under Sections 1 to 9 of this Act or the charter
7 contract, and has persistently failed to correct the violation after fair and
8 specific notice from the authorizer;
- 9 (c) Failed to meet or make progress toward the performance expectations set
10 forth in the charter contract;
- 11 (d) Failed to meet generally accepted standards of fiscal management, and has
12 failed to correct the violation after fair and specific notice from the
13 authorizer; or
- 14 (e) Substantially violated any material provision of law from which the public
15 charter school was not exempted and has failed to correct the violation after
16 fair and specific notice from the authorizer.
- 17 (7) An authorizer may take immediate action to revoke a charter contract if a
18 violation threatens the health and safety of the students of the public charter
19 school or if an employee of the school or member of the school's governing board
20 has committed a material violation of the law.
- 21 (8) An authorizer shall develop a revocation and nonrenewal process that:
- 22 (a) Provides the charter holder with a timely notification of the prospect of
23 revocation or nonrenewal and of the reasons for such possible closure;
- 24 (b) Allows the charter holder a reasonable time in which to prepare a response;
- 25 (c) Provides the charter holder with an opportunity to submit documentation
26 and provide testimony challenging the rationale behind the closure and in
27 support of the continuation of the school at an orderly proceeding held for

1 that purpose;

2 (d) Allows the charter holder the right to representation by counsel and to call
3 witnesses on behalf of the charter holder;

4 (e) Permits the recording of such proceedings; and

5 (f) After a reasonable period for deliberation, requires a final determination be
6 made and conveyed in writing to the charter holder.

7 (9) If an authorizer revokes or does not renew a contract, the authorizer shall clearly
8 state, in a resolution of its governing board, the reason for the revocation or
9 nonrenewal.

10 (10) Within ten (10) days of taking action to renew, not renew, or revoke a charter, the
11 authorizer shall report to the Department of Education the action taken, and
12 shall provide a report to the public charter school at the same time the report is
13 submitted to the Department of Education. The report shall include a copy of a
14 resolution adopted by the authorizer's governing board setting forth the action
15 taken and reasons for the decision and assurance as to compliance with all of the
16 procedural requirements and application elements found in Section 6 of this Act.

17 (11) (a) An authorizer shall develop a public charter school closure protocol to
18 ensure timely notification to parents, orderly transition of students and
19 student records to new schools, and proper disposition of school funds,
20 property, and assets. The protocol shall specify tasks, timelines, and
21 responsible parties, including delineating the respective duties of the school
22 and the authorizer. If a public charter school closes for any reason, the
23 authorizer shall oversee and work with the closing school to ensure a
24 smooth and orderly closure and transition for students and parents, as
25 guided by the closure protocol.

26 (b) If a public charter school closes for any reason, the assets of the school
27 shall be distributed first to satisfy outstanding payroll obligations for

1 employees of the school, then to creditors of the school, then to the State
2 Treasurer for depository into the state general fund. If the assets are
3 insufficient to satisfy outstanding obligations, the authorizer shall petition
4 the Circuit Court of the county in which the public charter school is located
5 to prioritize the distribution of assets.

6 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) An existing public school not scheduled for closure may be converted into a
9 charter school and be identified as a conversion public charter school if:

10 (a) A simple majority of the parents or guardians of students who attend the
11 school have signed a petition requesting the conversion, which shall be
12 completed not later than ninety (90) days after the date of the first
13 signature; or

14 (b) The local school board votes to convert an existing public school within its
15 district boundary.

16 (2) If a local school board operates a school that has failed to meet its targeted
17 academic goals, as established by the Department of Education, for four (4)
18 consecutive years, the local school board shall not serve as the authorizer if that
19 school seeks to become a public charter school.

20 (3) A conversion public charter school shall be governed by a governing board.

21 (4) A conversion public charter school shall continue to comply with all federal and
22 state requirements concerning the treatment of children with special needs and
23 accept all students who attended the school prior to its conversion who wish to
24 attend. If the number of students enrolled does not exceed the capacity of the
25 school, enrollment preference shall be given first to students who reside within
26 the school district boundary in which the charter school is located and then to
27 students who reside outside the district boundary.

1 (5) (a) An employee who works in a conversion public charter school may be an
2 employee of the public charter school or of both the public charter school
3 and the school district that authorized the charter school, as determined by
4 the provisions of the school's charter,

5 (b) All benefits accrued by an employee of a conversion public charter school
6 during the time the employee was an employee of the school district that
7 authorized the charter school are the financial responsibility of the school
8 district. The authorizer shall pay those benefits directly or reimburse the
9 conversion public charter school for the costs of the benefits.

10 (6) (a) For any collective bargaining agreement entered into on or after the
11 effective date of this Act, a governing board shall not be bound by its
12 collective bargaining agreement for employees of a conversion public
13 charter school.

14 (b) Employees of a conversion public charter school may organize and
15 collectively bargain only as a unit separate from other school employees.

16 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) As used in this section, "authorizer," "governing board," "local school board,"
19 "public chartered school," and "school district" have the same meanings as in
20 Section 1 of this Act.

21 (2) A local board shall, at a minimum, fund a public charter school authorized by
22 the school district at the same level as noncharter public schools located in the
23 school district.

24 (3) (a) Public funding for a public charter school not authorized by a school
25 district shall consist of state and local funds as provided in this subsection.

26 (b) 1. a. The public charter school shall receive an amount equal to the
27 base funding level for each pupil in average daily attendance at

1 the public charter school during the previous year. The base
2 funding level shall be calculated as provided in KRS 157.390(5).
3 If the General Assembly provides for increases in the base
4 funding level based on particular characteristics of students in
5 an enacted branch budget bill or any other statute, public
6 charter schools shall be treated as any other school district with
7 regard to the increases.

8 b. The adjustments provided in KRS 157.360(9), (10), and (11)
9 shall be applied to the base funding level for public charter
10 schools, and KRS 157.430 shall apply to public charter schools if
11 implemented by the chief state school officer.

12 2. a. In addition to the amount provided under subparagraph 1. of
13 this paragraph, if the district in which the public charter school
14 is located levies the tax rate authorized by KRS 157.440(1)(a),
15 commonly referred to as "Tier I," or the tax rate authorized by
16 KRS 157.440(2)(a), commonly referred to as "Tier II," the
17 public charter school shall receive an amount equal to the
18 proportionate amount of revenues generated from those levies,
19 as determined under subdivision b. of this subparagraph, and
20 paid as provided in paragraphs (c), (d), and (e) of this
21 subsection.

22 b. The Department of Education shall determine the amount to be
23 transferred to the public charter school under subdivision a. of
24 this subparagraph by establishing the maximum amount that
25 may be generated by the local school district pursuant to the rate
26 authorized by KRS 157.440(1)(a), and if the district also levies
27 the rate authorized by KRS 157.440(2)(a), the maximum amount

1 that may be generated by the local school district from that levy.
2 That total amount shall be divided by the number of pupils in
3 average daily attendance in the local school district during the
4 prior year, including pupils attending the public charter school.
5 The resulting number shall be multiplied by the number of
6 pupils in average daily attendance at the public charter school
7 during the prior year to determine the additional amount to be
8 transferred to the public charter school under this
9 subparagraph. Any equalization provided to the local school
10 district based on the levy of the Tier I rate shall be shared with
11 the public charter school proportionally.

12 (c) The total amount of funds to be transferred to the public charter school
13 shall be paid by the state and the school district within which the public
14 charter school is located. The state portion of the funding required by
15 paragraph (b)1. of this subsection shall be the same proportion as the state
16 portion of the program for the local school district in which the public
17 charter school is located as determined under KRS 157.360(17). The
18 remainder of the total funds, including amounts determined under
19 paragraph (b)2. of this subsection, shall be considered the school district
20 portion.

21 (d) The total amount due the public charter school, including the state and
22 local school district portions, shall be paid to the public charter school by
23 the Department of Education at the same time and in the same manner as
24 provided in KRS 157.410 for payment to school districts.

25 (e) The amount due to the public charter school which constitutes the school
26 district portion shall be deducted from the amount that would otherwise be
27 paid to that school district by the Department of Education as provided in

1 KRS 157.410. The Department of Education shall provide an accounting to
2 the school district of the amounts transferred to the public charter school
3 that constitute local funds.

4 (f) 1. A public charter school in its first year of operation shall be eligible to
5 receive funding as described in this subsection based on the estimated
6 number of pupils in average daily attendance for the first year of
7 operation.

8 2. The estimated number of pupils shall be determined by the authorizer
9 as part of the charter approval process, based on information included
10 in the charter agreement. The authorizer shall notify the Department
11 of Education and the school district within which the public charter
12 school is located of its estimates, and the Department of Education
13 shall use those estimates in making the calculations and payments
14 required by this subsection.

15 3. Within five (5) days after the first twenty (20) school days, the public
16 charter school shall report to the authorizer, the Kentucky Department
17 of Education, and the school district its actual daily attendance for the
18 first month of school, and the Department of Education shall adjust
19 future payments to the public charter school to reflect the actual
20 average daily attendance reported. Subsequent adjustments provided
21 under KRS 157.410 shall also apply to funds distributed to a public
22 charter school in its initial year of operation.

23 (4) A public charter school shall be eligible for federal and state competitive grants
24 and shall not be excluded from an opportunity to participate as an independent
25 educational entity so long as the available grants align with the grade levels
26 included in the public charter school and the other criteria established for the
27 respective grants.

1 (5) A public charter school shall receive a proportionate share of moneys generated
2 under federal and state categorical aid programs for students that are eligible for
3 the aid and attending the public charter school.

4 (6) (a) The governing board of a public charter school may accept gifts, donations,
5 or grants of any kind made to the school and expend or use the gifts,
6 donations, or grants in accordance with the conditions prescribed by the
7 donor.

8 (b) A gift or donation shall not be required for admission or used as a means to
9 gain admission to the public charter school.

10 (c) A gift, donation, or grant shall not be accepted by the governing board if it
11 is subject to a condition that is contrary to law or contrary to the terms of
12 the contract between the public charter school and the authorizer.

13 (d) All gifts, donations, or grants shall be reported to the public charter school
14 authorizer in the public charter school's annual report.

15 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) There is hereby established in the Kentucky Finance and Administration Cabinet
18 a public charter school facility revolving loan program. The program shall be
19 composed of federal funds obtained by the state for public charter schools, as
20 defined in Section 1 of this Act, and any other funds appropriated or transferred
21 to the fund by the state. Funds appropriated to the public charter school facility
22 revolving loan program shall remain available for the purposes of the program
23 until reappropriated or reverted by the General Assembly.

24 (2) (a) Loans may be made from moneys in the public charter school facility
25 revolving loan program to a public charter school, upon application by a
26 public charter school, and upon approval of the State Board of Education
27 or its designee.

1 (b) Moneys loaned shall be for construction, purchase, renovation, and
2 maintenance of public charter school facilities.

3 (c) A public charter school may receive multiple loans from the public charter
4 school facility revolving loan program.

5 (3) The State Board of Education or designee may consider the following when
6 making a determination as to the approval of a public charter school's loan
7 application:

8 (a) The soundness of the financial business plan of the applicant public charter
9 school;

10 (b) Availability to the public charter school of other sources of funding;

11 (c) Geographic distribution of loans made from the public charter school
12 facility revolving loan program;

13 (d) The impact that loans received under this section will have on the public
14 charter school's receipt of other private and public financing;

15 (e) Plans for innovatively enhancing or leveraging funds received under this
16 section, such as loan guarantees or other types of credit enhancements; and

17 (f) The financial needs of the public charter school.

18 (4) Beginning with the first fiscal year following the fiscal year a public charter
19 school receives a loan, the Department of Education shall deduct from
20 apportionments made to a public charter school, as appropriate, an amount equal
21 to the annual repayment of the amount loaned to a public charter school under
22 this section and pay the same amount into the public charter school facility
23 revolving loan program in the Finance and Administration Cabinet. Repayment
24 of the full amount loaned to a public charter school shall be deducted by the State
25 Department of education in equal annual amounts over a number of years agreed
26 upon between the public charter school and the State Board of Education or its
27 designee.

1 (5) Notwithstanding any other statute to the contrary, a loan may be made to a public
2 charter school under this section only if the public charter school is incorporated.

3 (6) Notwithstanding any other statute to the contrary, in the case of default of a loan
4 made to a public charter school under the provisions of this section, the public
5 charter school shall be solely liable for repayment of the loan.

6 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) A public charter school as defined in Section 1 of this Act shall have a right of
9 first refusal to purchase or lease at or below fair market value a closed public
10 school facility or property or unused portions of a public school facility or
11 property located in a school district from which the public charter school draws
12 its students if the school district decides to sell or lease the public school facility
13 or property.

14 (2) A public charter school may negotiate and contract at or below fair market value
15 with a school district, the governing body of a public postsecondary education
16 institution, or any public or for-profit or nonprofit private entity for the use of a
17 facility for a school building.

18 (3) Library, community service, museum, performing arts, theatre, cinema, church,
19 or postsecondary education facilities may provide space to a public charter school
20 under their pre-existing zoning and land use designations.

21 ➔Section 13. KRS 161.220 is amended to read as follows:

22 As used in KRS 161.220 to 161.716 and 161.990:

23 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
24 161.716 and 161.990 for payment of allowances to members;

25 (2) "Retirement allowance" means the amount annually payable during the course of his
26 natural life to a member who has been retired by reason of service;

27 (3) "Disability allowance" means the amount annually payable to a member retired by

1 reason of disability;

2 (4) "Member" means the commissioner of education, deputy commissioners, associate
3 commissioners, and all division directors in the State Department of Education,
4 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
5 full-time teacher or professional occupying a position requiring certification or
6 graduation from a four (4) year college or university, as a condition of employment,
7 and who is employed by public boards, institutions, or agencies as follows:

8 (a) Local boards of education;

9 (b) Eastern Kentucky University, Kentucky State University, Morehead State
10 University, Murray State University, Western Kentucky University, and any
11 community colleges established under the control of these universities;

12 (c) State-operated secondary area vocational education or area technology centers,
13 Kentucky School for the Blind, and Kentucky School for the Deaf;

14 (d) The Education Professional Standards Board, other public education agencies
15 as created by the General Assembly, and those members of the administrative
16 staff of the Teachers' Retirement System of the State of Kentucky whom the
17 board of trustees may designate by administrative regulation;

18 (e) Regional cooperative organizations formed by local boards of education or
19 other public educational institutions listed in this subsection, for the purpose
20 of providing educational services to the participating organizations;

21 (f) All full-time members of the staffs of the Kentucky Association of School
22 Administrators, Kentucky Education Association, Kentucky Vocational
23 Association, Kentucky High School Athletic Association, Kentucky Academic
24 Association, and the Kentucky School Boards Association who were members
25 of the Kentucky Teachers' Retirement System or were qualified for a position
26 covered by the system at the time of employment by the association in the
27 event that the board of directors of the respective association petitions to be

1 included. The board of trustees of the Kentucky Teachers' Retirement System
2 may designate by resolution whether part-time employees of the petitioning
3 association are to be included. The state shall make no contributions on
4 account of these employees, either full-time or part-time. The association shall
5 make the employer's contributions, including any contribution that is specified
6 under KRS 161.550. The provisions of this paragraph shall be applicable to
7 persons in the employ of the associations on or subsequent to July 1, 1972;

8 (g) Employees of the Council on Postsecondary Education who were employees
9 of the Department for Adult Education and Literacy and who were members
10 of the Kentucky Teachers' Retirement System at the time the department was
11 transferred to the council pursuant to Executive Order 2003-600;

12 (h) The Office of Career and Technical Education, except that the executive
13 director shall not be a member;

14 (i) The Office of Vocational Rehabilitation;

15 (j) The Kentucky Educational Collaborative for State Agency Children;

16 (k) The Governor's Scholars Program;

17 (l) Any person who is retired for service from the retirement system and is
18 reemployed by an employer identified in this subsection in a position that the
19 board of trustees deems to be a member;

20 (m) Employees of the former Cabinet for Workforce Development who are
21 transferred to the Kentucky Community and Technical College System and
22 who occupy positions covered by the Kentucky Teachers' Retirement System
23 shall remain in the Teachers' Retirement System. New employees occupying
24 these positions, as well as newly created positions qualifying for Teachers'
25 Retirement System coverage that would have previously been included in the
26 former Cabinet for Workforce Development, shall be members of the
27 Teachers' Retirement System;

- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;
- (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;
- (p) Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department;~~and~~
- (q) Employees of a public charter school, as defined in Section 1 of this Act, who are eligible under the provisions of Section 5 of this Act; and

- 1 (r) The governor's School for Entrepreneurs Program.
- 2 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
3 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
4 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
5 after that date, and any teacher who was a member of a local teacher retirement
6 system in the public elementary or secondary schools of the state on or before July
7 1, 1940, and continued to be a member of the system until he, with the membership
8 of the local retirement system, became a member of the state Teachers' Retirement
9 System or who becomes a member under the provisions of KRS 161.470(4);
- 10 (6) "New teacher" means any member not a present teacher;
- 11 (7) "Prior service" means the number of years during which the member was a teacher
12 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
13 service shall be allowed or credited to any teacher;
- 14 (8) "Subsequent service" means the number of years during which the teacher is a
15 member of the Teachers' Retirement System after July 1, 1941;
- 16 (9) "Final average salary" means the average of the five (5) highest annual salaries
17 which the member has received for service in a covered position and on which the
18 member has made contributions, or on which the public board, institution, or
19 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
20 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
21 which shall include picked-up member contributions. Additionally, the board of
22 trustees may approve a final average salary based upon the average of the three (3)
23 highest salaries for members who are at least fifty-five (55) years of age and have a
24 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
25 the five (5) or three (3) highest annual salaries used to calculate the final average
26 salary was paid within the three (3) years immediately prior to the date of the
27 member's retirement, the amount of salary to be included for each of those three (3)

1 years for the purpose of calculating the final average salary shall be limited to the
2 lesser of:

3 (a) The member's actual salary; or

4 (b) The member's annual salary that was used for retirement purposes during each
5 of the prior three (3) years, plus a percentage increase equal to the percentage
6 increase received by all other members employed by the public board,
7 institution, or agency, or for members of school districts, the highest
8 percentage increase received by members on any one (1) rank and step of the
9 salary schedule of the school district. The increase shall be computed on the
10 salary that was used for retirement purposes.

11 This limitation shall not apply if the member receives an increase in salary in a
12 percentage exceeding that received by the other members, and this increase was
13 accompanied by a corresponding change in position or in length of employment.

14 This limitation shall also not apply to the payment to a member for accrued annual
15 leave if the individual becomes a member before July 1, 2008, or accrued sick leave
16 which is authorized by statute and which shall be included as part of a retiring
17 member's annual compensation for the member's last year of active service;

18 (10) "Annual compensation" means the total salary received by a member as
19 compensation for all services performed in employment covered by the retirement
20 system during a fiscal year. Annual compensation shall not include payment for any
21 benefit or salary adjustments made by the public board, institution, or agency to the
22 member or on behalf of the member which is not available as a benefit or salary
23 adjustment to other members employed by that public board, institution, or agency.
24 Annual compensation shall not include the salary supplement received by a member
25 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
26 circumstances shall annual compensation include compensation that is earned by a
27 member while on assignment to an organization or agency that is not a public board,

1 institution, or agency listed in subsection (4) of this section. In the event that federal
2 law requires that a member continue membership in the retirement system even
3 though the member is on assignment to an organization or agency that is not a
4 public board, institution, or agency listed in subsection (4) of this section, the
5 member's annual compensation for retirement purposes shall be deemed to be the
6 annual compensation, as limited by subsection (9) of this section, last earned by the
7 member while still employed solely by and providing services directly to a public
8 board, institution, or agency listed in subsection (4) of this section. The board of
9 trustees shall determine if any benefit or salary adjustment qualifies as annual
10 compensation. For an individual who becomes a member on or after July 1, 2008,
11 annual compensation shall not include lump-sum payments upon termination of
12 employment for accumulated annual or compensatory leave;

13 (11) "Age of member" means the age attained on the first day of the month immediately
14 following the birthdate of the member. This definition is limited to retirement
15 eligibility and does not apply to tenure of members;

16 (12) "Employ," and derivatives thereof, means relationships under which an individual
17 provides services to an employer as an employee, as an independent contractor, as
18 an employee of a third party, or under any other arrangement as long as the services
19 provided to the employer are provided in a position that would otherwise be covered
20 by the Kentucky Teachers' Retirement System and as long as the services are being
21 provided to a public board, institution, or agency listed in subsection (4) of this
22 section;

23 (13) "Regular interest" means interest at three percent (3%) per annum, except for an
24 individual who becomes a member on or after July 1, 2008, "regular interest" means
25 interest at two and one-half percent (2.5%) per annum for purposes of crediting
26 interest to the teacher savings account or any other contributions made by the
27 employee that are refundable to the employee upon termination of employment;

- 1 (14) "Accumulated contributions" means the contributions of a member to the teachers'
2 savings fund, including picked-up member contributions as described in KRS
3 161.540(2), plus accrued regular interest;
- 4 (15) "Annuitant" means a person who receives a retirement allowance or a disability
5 allowance;
- 6 (16) "Local retirement system" means any teacher retirement or annuity system created
7 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 8 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
9 retirement plan year is concurrent with this fiscal year. A contract for a member
10 employed by a local board of education may not exceed two hundred sixty-one
11 (261) days in the fiscal year;
- 12 (18) "Public schools" means the schools and other institutions mentioned in subsection
13 (4) of this section;
- 14 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
15 receiving, at the time of death of the member, at least one-half (1/2) of the support
16 from the member for maintenance, including board, lodging, medical care, and
17 related costs;
- 18 (20) "Active contributing member" means a member currently making contributions to
19 the Teachers' Retirement System, who made contributions in the next preceding
20 fiscal year, for whom picked-up member contributions are currently being made, or
21 for whom these contributions were made in the next preceding fiscal year;
- 22 (21) "Full-time" means employment in a position that requires services on a continuing
23 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
24 basis;
- 25 (22) "Full actuarial cost," when used to determine the payment that a member must pay
26 for service credit means the actuarial value of all costs associated with the
27 enhancement of a member's benefits or eligibility for benefit enhancements,

1 including health insurance supplement payments made by the retirement system.
2 The actuary for the retirement system shall determine the full actuarial value costs
3 and actuarial cost factor tables as provided in KRS 161.400;

4 (23) "Last annual compensation" means the annual compensation, as defined by
5 subsection (10) of this section and as limited by subsection (9) of this section,
6 earned by the member during the most recent period of contributing service, either
7 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
8 full year of service credit in the Kentucky Teachers' Retirement System, and which
9 compensation is used in calculating the member's initial retirement allowance,
10 excluding bonuses, retirement incentives, payments for accumulated sick, annual,
11 personal and compensatory leave, and any other lump-sum payment. For an
12 individual who becomes a member on or after July 1, 2008, payments for annual or
13 compensatory leave shall not be included in determining the member's last annual
14 compensation;

15 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
16 annuitant, as defined by subsection (15) of this section;

17 (25) "Qualified domestic relations order" means any judgment, decree, or order,
18 including approval of a property settlement agreement, that:

19 (a) Is issued by a court or administrative agency; and

20 (b) Relates to the provision of child support, alimony payments, or marital property
21 rights to an alternate payee; and

22 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
23 participant, who is designated to be paid retirement benefits in a qualified domestic
24 relations order.

25 ➔Section 14. KRS 78.510 is amended to read as follows:

26 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

27 (1) "System" means the County Employees Retirement System;

- 1 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- 2 (3) "County" means any county, or nonprofit organization created and governed by a
3 county, counties, or elected county officers, sheriff and his employees, county clerk
4 and his employees, circuit clerk and his deputies, former circuit clerks or former
5 circuit clerk deputies, or political subdivision or instrumentality, including school
6 boards, charter schools as defined in Section 1 of this Act and eligible under
7 Section 5 of this Act, charter county government, or urban-county government
8 participating in the system by order appropriate to its governmental structure, as
9 provided in KRS 78.530, and if the board is willing to accept the agency,
10 organization, or corporation, the board being hereby granted the authority to
11 determine the eligibility of the agency to participate;
- 12 (4) "School board" means any board of education participating in the system by order
13 appropriate to its governmental structure, as provided in KRS 78.530, and if the
14 board is willing to accept the agency or corporation, the board being hereby granted
15 the authority to determine the eligibility of the agency to participate;
- 16 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 17 (6) "Employee" means every regular full-time appointed or elective officer or employee
18 of a participating county and the coroner of a participating county, whether or not he
19 qualifies as a regular full-time officer. The term shall not include persons engaged
20 as independent contractors, seasonal, emergency, temporary, and part-time workers.
21 In case of any doubt, the board shall determine if a person is an employee within the
22 meaning of KRS 78.510 to 78.852;
- 23 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
24 officials of a county, or any authority of the county having the power to appoint or
25 elect an employee to office or employment in the county;
- 26 (8) "Member" means any employee who is included in the membership of the system or
27 any former employee whose membership has not been terminated under KRS

- 1 61.535;
- 2 (9) "Service" means the total of current service and prior service as defined in this
- 3 section;
- 4 (10) "Current service" means the number of years and months of employment as an
- 5 employee, on and after July 1, 1958, for which creditable compensation is paid and
- 6 employee contributions deducted, except as otherwise provided;
- 7 (11) "Prior service" means the number of years and completed months, expressed as a
- 8 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
- 9 creditable compensation was paid. An employee shall be credited with one (1)
- 10 month of prior service only in those months he received compensation for at least
- 11 one hundred (100) hours of work. Twelve (12) months of current service in the
- 12 system shall be required to validate prior service;
- 13 (12) "Accumulated contributions" means the sum of all amounts deducted from the
- 14 compensation of a member and credited to his individual account in the members'
- 15 account, including employee contributions picked up after August 1, 1982, pursuant
- 16 to KRS 78.610(4), together with interest credited on the amounts, and any other
- 17 amounts the member shall have contributed thereto, including interest credited
- 18 thereon. For members who begin participating on or after September 1, 2008,
- 19 "accumulated contributions" shall not include employee contributions that are
- 20 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
- 21 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS
- 22 61.702(2)(b);
- 23 (13) "Creditable compensation" means all salary, wages, and fees, including payments
- 24 for compensatory time, paid to the employee as a result of services performed for
- 25 the employer or for time during which the member is on paid leave, which are
- 26 includable on the member's federal form W-2 wage and tax statement under the
- 27 heading "wages, tips, other compensation", including employee contributions

1 picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,
2 severance pay, or employer-provided payment for purchase of service credit shall be
3 included as creditable compensation but shall be averaged over the employee's
4 service with the system in which it is recorded if it is equal to or greater than one
5 thousand dollars (\$1,000). If compensation includes maintenance and other
6 perquisites, the board shall fix the value of that part of the compensation not paid in
7 money. Living allowances, expense reimbursements, lump-sum payments for
8 accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other
9 items determined by the board shall be excluded. Creditable compensation shall
10 also include amounts that are not includable in the member's gross income by virtue
11 of the member having taken a voluntary salary reduction provided for under
12 applicable provisions of the Internal Revenue Code. Creditable compensation shall
13 also include elective amounts for qualified transportation fringes paid or made
14 available on or after January 1, 2001, for calendar years on or after January 1, 2001,
15 that are not includable in the gross income of the employee by reason of 26 U.S.C.
16 sec. 132(f)(4). For employees who begin participating on or after September 1,
17 2008, creditable compensation shall not include payments for compensatory time.
18 Creditable compensation shall not include training incentive payments for city
19 officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin
20 participating on or after August 1, 2016, creditable compensation shall exclude
21 nominal fees paid for services as a volunteer;

22 (14) "Final compensation" means:

23 (a) For a member who begins participating before September 1, 2008, who is not
24 employed in a hazardous position, as provided in KRS 61.592, the creditable
25 compensation of the member during the five (5) fiscal years he was paid at the
26 highest average monthly rate divided by the number of months of service
27 credit during that five (5) year period multiplied by twelve (12). The five (5)

1 years may be fractional and need not be consecutive. If the number of months
2 of service credit during the five (5) year period is less than forty-eight (48),
3 one (1) or more additional fiscal years shall be used;

4 (b) For a member who is not employed in a hazardous position, as provided in
5 KRS 61.592, whose effective retirement date is between August 1, 2001, and
6 January 1, 2009, and whose total service credit is at least twenty-seven (27)
7 years and whose age and years of service total at least seventy-five (75), final
8 compensation means the creditable compensation of the member during the
9 three (3) fiscal years the member was paid at the highest average monthly rate
10 divided by the number of months of service credit during that three (3) year
11 period multiplied by twelve (12). The three (3) years may be fractional and
12 need not be consecutive. If the number of months of service credit during the
13 three (3) year period is less than twenty-four (24), one (1) or more additional
14 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the
15 funding for this paragraph shall be provided from existing funds of the
16 retirement allowance;

17 (c) For a member who begins participating before September 1, 2008, who is
18 employed in a hazardous position, as provided in KRS 61.592, the creditable
19 compensation of the member during the three (3) fiscal years he was paid at
20 the highest average monthly rate divided by the number of months of service
21 credit during that three (3) year period multiplied by twelve (12). The three (3)
22 years may be fractional and need not be consecutive. If the number of months
23 of service credit during the three (3) year period is less than twenty-four (24),
24 one (1) or more additional fiscal years shall be used;

25 (d) For a member who begins participating on or after September 1, 2008, but
26 prior to January 1, 2014, who is not employed in a hazardous position, as
27 provided in KRS 61.592, the creditable compensation of the member during

- 1 the five (5) complete fiscal years immediately preceding retirement divided by
2 five (5). Each fiscal year used to determine final compensation must contain
3 twelve (12) months of service credit. If the member does not have five (5)
4 complete fiscal years that each contain twelve (12) months of service credit,
5 then one (1) or more additional fiscal years shall be used; or
- 6 (e) For a member who begins participating on or after September 1, 2008, but
7 prior to January 1, 2014, who is employed in a hazardous position, as
8 provided in KRS 61.592, the creditable compensation of the member during
9 the three (3) complete fiscal years he was paid at the highest average monthly
10 rate divided by three (3). Each fiscal year used to determine final
11 compensation must contain twelve (12) months of service credit;
- 12 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
13 calculated during the twelve (12) month period immediately preceding the
14 member's effective retirement date, and shall include employee contributions picked
15 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
16 the system by the employer and the following equivalents shall be used to convert
17 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
18 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
19 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
20 (12) months, one (1) year;
- 21 (16) "Retirement allowance" means the retirement payments to which a member is
22 entitled;
- 23 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
24 basis of the actuarial tables adopted by the board. In cases of disability retirement,
25 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
26 to the age of the member, unless the member has chosen the Social Security
27 adjustment option as provided for in KRS 61.635(8), in which case the member's

1 actual age shall be used. For members who begin participating in the system prior to
2 January 1, 2014, no disability retirement option shall be less than the same option
3 computed under early retirement;

4 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless
5 otherwise provided in KRS 78.510 to 78.852;

6 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
7 following June 30, which shall also be the plan year. The "fiscal year" shall be the
8 limitation year used to determine contribution and benefits limits as set out in 26
9 U.S.C. sec. 415;

10 (20) "Agency reporting official" means the person designated by the participating agency
11 who shall be responsible for forwarding all employer and employee contributions
12 and a record of the contributions to the system and for performing other
13 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

14 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
15 all positions that average one hundred (100) or more hours per month, determined
16 by using the number of hours actually worked in a calendar or fiscal year, or eighty
17 (80) or more hours per month in the case of noncertified employees of school
18 boards, determined by using the number of hours actually worked in a calendar or
19 school year, unless otherwise specified, except:

20 (a) Seasonal positions, which although temporary in duration, are positions which
21 coincide in duration with a particular season or seasons of the year and that
22 may recur regularly from year to year, in which case the period of time shall
23 not exceed nine (9) months, except for employees of school boards, in which
24 case the period of time shall not exceed six (6) months;

25 (b) Emergency positions that are positions that do not exceed thirty (30) working
26 days and are nonrenewable;

27 (c) Temporary, also referred to as probationary, positions that are positions of

- 1 employment with a participating agency for a period of time not to exceed
2 twelve (12) months and not renewable; or
- 3 (d) Part-time positions that are positions that may be permanent in duration, but
4 that require less than a calendar or fiscal year average of one hundred (100)
5 hours of work per month, determined by using the number of months actually
6 worked within a calendar or fiscal year, in the performance of duty, except in
7 case of noncertified employees of school boards, the school term average shall
8 be eighty (80) hours of work per month, determined by using the number of
9 months actually worked in a calendar or school year, in the performance of
10 duty;
- 11 (22) "Alternate participation plan" means a method of participation in the system as
12 provided for by KRS 78.530(3);
- 13 (23) "Retired member" means any former member receiving a retirement allowance or
14 any former member who has on file at the retirement office the necessary
15 documents for retirement benefits and is no longer contributing to the system;
- 16 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
17 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
18 pay. The rate shall be certified by the employer;
- 19 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
20 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
21 in the event of the member's death. As used in KRS 61.702, beneficiary shall not
22 mean an estate, trust, or trustee;
- 23 (26) "Recipient" means the retired member, the person or persons designated as
24 beneficiary by the member and drawing a retirement allowance as a result of the
25 member's death, or a dependent child drawing a retirement allowance. An alternate
26 payee of a qualified domestic relations order shall not be considered a recipient,
27 except for purposes of KRS 61.623;

- 1 (27) "Person" means a natural person;
- 2 (28) "School term or year" means the twelve (12) months from July 1 through the
3 following June 30;
- 4 (29) "Retirement office" means the Kentucky Retirement Systems office building in
5 Frankfort;
- 6 (30) "Delayed contribution payment" means an amount paid by an employee for current
7 service obtained under KRS 61.552. The amount shall be determined using the
8 same formula in KRS 61.5525, except the determination of the actuarial cost for
9 classified employees of a school board shall be based on their final compensation,
10 and the payment shall not be picked up by the employer. A delayed contribution
11 payment shall be deposited to the member's account and considered as accumulated
12 contributions of the individual member. In determining payments under this
13 subsection, the formula found in this subsection shall prevail over the one found in
14 KRS 212.434;
- 15 (31) "Participating" means an employee is currently earning service credit in the system
16 as provided in KRS 78.615;
- 17 (32) "Month" means a calendar month;
- 18 (33) "Membership date" means the date upon which the member began participating in
19 the system as provided in KRS 78.615;
- 20 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
21 retired member, as defined by subsection (23) of this section;
- 22 (35) "Qualified domestic relations order" means any judgment, decree, or order,
23 including approval of a property settlement agreement, that:
- 24 (a) Is issued by a court or administrative agency; and
- 25 (b) Relates to the provision of child support, alimony payments, or marital
26 property rights to an alternate payee;
- 27 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a

1 participant, who is designated to be paid retirement benefits in a qualified domestic
2 relations order;

3 (37) "Accumulated employer credit" means the employer pay credit deposited to the
4 member's account and interest credited on such amounts as provided by KRS
5 16.583 and 61.597;

6 (38) "Accumulated account balance" means:

7 (a) For members who began participating in the system prior to January 1, 2014,
8 the member's accumulated contributions; or

9 (b) For members who began participating in the system on or after January 1,
10 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
11 the combined sum of the member's accumulated contributions and the
12 member's accumulated employer credit;

13 (39) "Volunteer" means an individual who:

14 (a) Freely and without pressure or coercion performs hours of service for an
15 employer participating in one (1) of the systems administered by Kentucky
16 Retirement Systems without receipt of compensation for services rendered,
17 except for reimbursement of actual expenses, payment of a nominal fee to
18 offset the costs of performing the voluntary services, or both; and

19 (b) If a retired member, does not become an employee, leased employee, or
20 independent contractor of the employer for which he or she is performing
21 volunteer services for a period of at least twenty-four (24) months following
22 the retired member's most recent retirement date; and

23 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
24 exceed five hundred dollars (\$500) per month. Compensation earned for services as
25 a volunteer from more than one (1) participating employer during a month shall be
26 aggregated to determine whether the compensation exceeds the five hundred dollars
27 (\$500) per month maximum provided by this subsection.

1 ➔ Section 15. KRS 156.108 is amended to read as follows:

2 (1) For purposes of this section and KRS 160.107:

3 (a) "District of innovation" means a district that has developed a plan of
4 innovation in compliance with this section and has been approved by the
5 Kentucky Board of Education to be exempted from certain administrative
6 regulations and statutory provisions to improve the educational performance
7 of students within the district. Beginning on the effective date of this Act, no
8 new districts of innovation shall be approved by the board of education. A
9 district currently approved as a district of innovation shall remain a district
10 of innovation until the approval period expires;

11 (b) "Opportunity school" means a school that has developed a plan of
12 innovation in compliance with this section and has been approved by the
13 Kentucky Board of Education to be exempted from certain administrative
14 regulations and statutory provisions to improve the educational
15 performance of students within the district; and

16 (c) "Innovation" means a new or creative alternative to existing instructional and
17 administrative practices intended to improve student learning and student
18 performance of all students[; and

19 ~~(e) "School of innovation" means a school that voluntarily participates in a~~
20 ~~district of innovation plan to improve instruction, including waivers and~~
21 ~~exemptions from local board of education policies, selected provisions of~~
22 ~~Kentucky Administrative Regulations promulgated by the Kentucky Board of~~
23 ~~Education, and selected sections of the Kentucky Revised Statutes, as~~
24 ~~permitted under this section and KRS 160.107].~~

25 (2) The Kentucky Board of Education is hereby authorized to approve opportunity
26 schools~~[districts of innovation]~~ for the purposes of improving students' educational
27 performance. Opportunity schools shall be exempt from all state statutes and

administrative regulations applicable to a local school board, school district, or school, except that opportunity schools shall adhere to the same health, safety, civil rights, and disability rights requirements as are applicable to all public schools~~[Districts of innovation shall be provided flexibility from selected Kentucky Administrative Regulations, Kentucky Revised Statutes, and local board of education policies for school administrators, teachers, and staff to meet the diverse needs of students].~~ The initial approval of an opportunity school~~[a district of innovation]~~ shall be for a five (5) year period. Each renewal of an opportunity school~~[a district of innovation]~~ shall not exceed five (5) years and shall comply with administrative regulations promulgated by the board pursuant to subsection (4) of this section.

(3) The Kentucky Board of Education shall promulgate administrative regulations to prescribe the conditions and procedures to be used by a school~~[local board of education]~~ to be approved as an opportunity school~~[a district of innovation]~~.

(4) Administrative regulations promulgated by the board under subsection (3) of this section shall specify:

~~(a) [The regulatory areas which may be exempted or modified if approved by the state board, except as provided in KRS 160.107(2) and in addition to those areas identified in KRS 160.107(3);~~

~~(b) [The application, plan review, approval, and amendment process for a school [district];~~

~~(b) [(e)]~~ Timelines for initial approval as an opportunity school~~[a district of innovation]~~, the renewal process, and on-going evaluative procedures required of the district;

~~(c) [(d)]~~ Acceptable documentation of ~~[a critical mass of]~~ parental~~[, community, educator,]~~ and business support and capacity to effect a change;

~~(d) [(e)]~~ The approvals required of the plan by certain employees of a school;

1 ~~[(f) Evidence of teacher collaboration and shared leadership within the district and~~
 2 ~~the schools to be designated as schools of innovation;]~~

3 ~~(e) [(g)]~~ The process of revocation of the designation of opportunity
 4 school~~[district of innovation or school of innovation];~~

5 ~~(f) [(h)]~~ Reporting and oversight responsibilities of the school~~[district]~~ and the
 6 Kentucky Department of Education;

7 ~~(g) [(i)]~~ The financial detail relating to budgets of schools and evidence of sound
 8 fiscal management practices;

9 ~~(h) [(j)]~~ Acceptable areas of emphasis for innovation;

10 ~~[(k) Acceptable documentation of job-embedded professional development within~~
 11 ~~the proposed innovation design;]~~ and

12 ~~(i) [(l)]~~ Other components deemed necessary to implement this section and KRS
 13 160.107.

14 ➔ Section 16. KRS 160.107 is amended to read as follows:

15 (1) A school~~[district]~~ which is an applicant to be designated as an opportunity school~~[~~
 16 ~~a district of innovation]~~ under KRS 156.108 shall:

17 (a) Establish~~[goals and]~~ performance targets for the opportunity school~~[district~~
 18 ~~of innovation]~~ proposal, which shall~~[may]~~ include one (1) or more of the
 19 following:

20 1. Significantly reducing achievement gaps among groups of public school
 21 students by expanding learning experiences for students~~[who are~~
 22 ~~identified as academically low-achieving];~~

23 2. Increasing student~~[pupil]~~ learning for all students as evidenced by
 24 performance on state assessments or college entrance
 25 examinations~~[through the implementation of high, rigorous standards~~
 26 ~~for pupil performance];~~

27 3. Significantly increasing the number and percentage of students

- 1 graduating high school with industry-recognized credentials,
 2 advanced placement credit, articulated credit, or dual credit~~[Increasing~~
 3 ~~the participation of students in various curriculum components and~~
 4 ~~instructional components within selected schools to enhance students'~~
 5 ~~preparation at each grade level];~~
- 6 4. Significantly increasing the number and percentage of high school
 7 graduates who enroll in a postsecondary education institution or
 8 training program immediately following high school graduation; or~~[of~~
 9 ~~students who are college and career ready; and]~~
- 10 5. Significantly increasing the number and percentage of high school
 11 graduates that successfully complete thirty (30) or more postsecondary
 12 credit hours within one (1) year after high school
 13 graduation~~[Motivating students at different grade levels by offering~~
 14 ~~more curriculum choices and student learning opportunities to parents~~
 15 ~~and students within the district;~~
- 16 (b) ~~Identify changes needed in the district and schools to lead to better prepared~~
 17 ~~students for success in life and work];~~
- 18 (b)(e) Have an opportunity school plan~~[a district wide plan of innovation]~~
 19 that describes and provides rationale for the innovative practices to be
 20 employed~~[justifies which schools and innovative practices will be~~
 21 ~~incorporated];~~
- 22 (c)(d) Provide documentation of parental and local board~~[community,~~
 23 ~~educator, parental, and the local board's]~~ support of the proposed innovations;
 24 and
- 25 (e) ~~Provide detailed information regarding the rationale of requests for waivers~~
 26 ~~from Kentucky Revised Statutes and administrative regulations, and~~
 27 ~~exemptions for selected schools regarding waivers of local board of education~~

1 policies;]

2 ~~(d)~~~~(f)~~ Document the fiscal and human resources the board will provide
3 throughout the term of the implementation of the innovations within its plan;
4 and

5 ~~(g) Provide other materials as required by the Kentucky Department of Education~~
6 ~~in compliance with the state board's administrative regulations and application~~
7 ~~procedures].~~

8 (2) The **opportunity school**~~[district and all schools participating in a district's~~
9 ~~innovation plan]~~ shall:

10 (a) Ensure the same health, safety, civil rights, and disability rights requirements
11 as are applied to all public schools;

12 (b) Ensure students meet compulsory attendance requirements under KRS
13 158.030 and 158.100;

14 (c) Ensure that high school course offerings meet or exceed the minimum
15 required under KRS 156.160 for high school graduation or meet early
16 graduation requirements that may be enacted by the General Assembly;

17 (d) Ensure the student performance standards meet or exceed those adopted by the
18 Kentucky Board of Education as required by KRS 158.685, including
19 compliance with the statewide assessment system specified in KRS 158.6453;

20 (e) Adhere to the same financial audits, audit procedures, and audit requirements
21 as are applied under KRS 156.265;

22 (f) Require state and criminal background checks for staff and volunteers as
23 required of all public school employees and volunteers within the public
24 schools and specified in KRS 160.380 and 161.148;

25 (g) Comply with open records and open meeting requirements under KRS
26 Chapter 61;

27 (h) Comply with purchasing requirements and limitations under KRS Chapter

1 45A and KRS 156.074 and 156.480;

2 (i) Provide overall instructional time that is equivalent to or greater than that
3 required under KRS 158.070, but which may include on-site instruction,
4 distance or virtual learning, and work-based learning on nontraditional school
5 days or hours; and

6 (j) Provide data to the Kentucky Department of Education as deemed necessary
7 to generate school and district reports.

8 ~~[(3) (a) Only schools that choose to be designated as schools of innovation shall be
9 included in a district's application.~~

10 ~~(b) 1. As used in this paragraph, "eligible employees" means employees that
11 are regularly employed at the school and those employees whose
12 primary job duties will be affected by the plan.~~

13 ~~2. A vote shall be taken among eligible employees in a school to determine
14 if the school shall be an applicant as a school of innovation in a district's
15 proposal and to approve the school's plan of innovation before it is
16 submitted to the district. At least seventy percent (70%) of those casting
17 votes shall vote in the affirmative in order for the school to request
18 inclusion in the district's plan and to approve the school's plan of
19 innovation.~~

20 ~~3. The school based decision making council shall be responsible for
21 conducting the vote provided for in subparagraph 2. of this paragraph,
22 which shall be by secret ballot.~~

23 ~~(c) Notwithstanding the provisions of paragraph (a) of this subsection, a local
24 board of education may require a school that has been identified as a
25 persistently low achieving school under KRS 160.346 to participate in the
26 district's plan of innovation.~~

27 ~~(4) (a) With approval of the state board, a school of innovation may request and be~~

1 ~~granted waivers from all or selected provisions of KRS 160.345 relating to~~
2 ~~school-based decision making.~~

3 ~~(b) To be exempt from KRS 160.345, a school-based decision-making council~~
4 ~~shall vote by secret ballot to determine if it wishes to request a waiver from~~
5 ~~KRS 160.345 or specific provisions within that statute. Only a school that has~~
6 ~~seventy percent (70%) or more of the teachers and staff in the school voting to~~
7 ~~waive its rights and responsibilities under KRS 160.345 shall be eligible.~~

8 ~~(c) No local board of education or superintendent nor the Kentucky Board of~~
9 ~~Education may compel a school to waive its rights under KRS 160.345, except~~
10 ~~as provided in KRS 160.346.~~

11 ~~(d) Before the provisions of KRS 160.345 are waived by the Kentucky Board of~~
12 ~~Education for a specific school, there shall be assurances that teachers,~~
13 ~~parents, and staff in the affected school will be actively involved in the~~
14 ~~management and decision-making operations of the schools, including input~~
15 ~~into employment matters and selection of personnel.~~

16 ~~(5) Notwithstanding any statutes to the contrary, the Kentucky Board of Education may~~
17 ~~approve the requests of districts of innovation to:~~

18 ~~(a) Use capital outlay funds for operational costs;~~

19 ~~(b) Hire persons for classified positions in nontraditional school and district~~
20 ~~assignments who have bachelor's and advanced degrees from postsecondary~~
21 ~~education institutions accredited by a regional accrediting association as~~
22 ~~defined in KRS 164.740;~~

23 ~~(c) Employ teachers on extended employment contracts or extra duty contracts~~
24 ~~and compensate them on a salary schedule other than the single salary~~
25 ~~schedule;~~

26 ~~(d) Extend the school days as is appropriate within the district with compensation~~
27 ~~for the employees as determined locally;~~

- 1 ~~(e) Establish alternative education programs and services that are delivered in~~
2 ~~nontraditional hours and which may be jointly provided in cooperation with~~
3 ~~another school district or consortia of districts;~~
- 4 ~~(f) Establish a virtual school within the district for delivering alternative classes~~
5 ~~to meet high school graduation requirements;~~
- 6 ~~(g) Use a flexible school calendar;~~
- 7 ~~(h) Convert existing schools into schools of innovation; and~~
- 8 ~~(i) Modify the formula under KRS 157.360(2) for distributing support education~~
9 ~~excellence in Kentucky funds for students in average daily attendance in~~
10 ~~nontraditional programming time, including alternative programs and virtual~~
11 ~~programs. Funds granted to a district shall not exceed those that would have~~
12 ~~otherwise been distributed based on average daily attendance during regular~~
13 ~~instructional days.]~~